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OFFICE OF PETITIONS

In re Application of	:	
Spies, et al.	:	
Application No. 10/606,432	:	ON PETITION
Filed: June 25, 2003	:	
Attorney Docket No. ID-8	:	

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 21, 2008.

The petition under 37 CFR 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed June 2, 2008. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on September 3, 2008. The Office mailed a Notice of Abandonment on September 25, 2008. Applicants filed a petition to withdraw the holding of abandonment on September 25, 2008, stating that they did not receive the Notice of Allowance. In support thereof, petitioner included a copy of his incoming mail log, showing all mail received for the period from June 2, 2008 to July 2, 2008. However, the petition was dismissed in a decision mailed on October 10, 2008. The petition was dismissed because applicants had not submitted a copy of a master log, showing all replies docketed for a due date of September 2, 2008.

To establish non-receipt of an Office action, a petitioner:

must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.¹

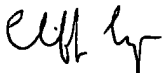
In addition, the Manual of Patent Examining Procedure § 711.03(c) also states:

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Here, petitioner has stated that no master docket exists. Accordingly, it is concluded that the incoming mail log submitted with the petition on September 25, 2008 is sufficient to conclude that the Notice of Allowance was not received.

The application is being forwarded to Group Art Unit 2132 for re-mailing of the June 2, 2008 Notice of Allowance, setting a new period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

¹ MPEP 711.03(c).